

## Drug industry spends huge sums guarding prices

BY PATRICIA BARRY

As consumers press lawmakers to reduce prescription drug costs and make medications affordable for more people, drugmakers are fighting many such efforts every inch of the way.



The brand-name drug industry is waging this battle with one thing it

has plenty of—money. For years it has been by far the richest in America—weighing in on this year's Fortune 500 list with an average 18.5 percent profit margin, more than four times that of all other industries.

### Critics charge that drugmakers:

- spend more on political influence than any other industry—nearly \$200 million in Washington in 1999–2000 alone;
- employ “a small army” of lobbyists to protect their bottom lines and oppose legislation they don’t like;
- finance “astroturf” efforts—fake grassroots groups that don’t reveal the drug industry’s support—to influence state legislation on drug prices.

So it can well afford the hundreds of millions it spends each year on political influence. That includes lobbying lawmakers and giving them campaign donations; funding extensive advertising campaigns and “grassroots” op-

position to programs and political candidates it dislikes; and, on occasion, filing lawsuits against states that try to lower drug prices.

The end result of these activities, critics say, is to perpetuate the high

cost of drugs in America, affecting not only consumers but also companies and government programs hit by soaring health bills.

The industry’s efforts to influence everything from the Medicare drug benefit debate on Capitol Hill to many states’ recent drug laws—most often openly, sometimes covertly—are perfectly legal. But they seriously concern some lawmakers.

“I believe that the amount of money they spend and the number of people they hire [to lobby] is really a problem in a democracy,” says Rep. Tom Allen, D-Maine.

The drug industry disagrees. “I’d say we are actively participating in

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the democratic process," responds Jeff Trehwhitt, a spokesman for its trade group, the Pharmaceutical Research and Manufacturers of America (PhRMA).

But the sheer volume of their expenditures, Allen worries, gives drugmakers so much weight in the political arena that they are able to thwart legislation they don't like. "Everyone has a right to lobby their members of Congress," Allen notes, but the drug industry "has more money than anybody else."

## LOBBYING AND CONTRIBUTIONS

How much the drugmakers spend in

total on these efforts throughout the nation is not known. "We don't divulge operating costs," says Trehwhitt.

But the drug industry's political influence in Washington alone during the 1999-2000 election cycle has been documented in an in-depth investigation by the consumer watchdog group Public Citizen. This reveals that the drug industry:

- spent \$177 million on lobbying members of Congress and \$20 million on campaign contributions in 1999-2000, in sum more than any other industry. [See chart on page 14.]
- employed 625 lobbyists in 2000—more than one for each member of Congress.
- lobbied mostly on Medicare drug benefit legislation and drug price issues in 2000.

economic analysis shows that the industry makes large profits way above the average 13 percent of revenue it spends on research and development. It also spends an average of 35 percent on advertising and administration, which includes the costs of lobbying and lawsuits.

The legislation PhRMA opposes most vigorously is Allen's bill, which would permit Medicare to negotiate drug prices on behalf of all 39 million beneficiaries. In the 2000 election, he says, four candidates who had co-sponsored this bill each faced \$1 million advertising campaigns against them funded by the drug industry.

These ads—known as "issue" ads because they focus on a topic—were used by the drug industry as a key weapon in the last election, mainly

"We were shocked at the scale of it," says Public Citizen's Frank Clemente, who directed the investigation. "It's a small army that's lobbying up there on Capitol Hill."

According to his team's analysis of official lobbying disclosure records, the industry recruited high-priced talent, paying individual lobbyists on average more than \$12,000 a month. Besides the in-house lobbyists working full time for the drug companies or their trade groups, 460 were hired from 19 of Washington's top lobbying firms.

And in what Clemente describes as "the revolving door" between government and industry, more than half the 625 lobbyists had previously worked on Capitol Hill or in other federal government jobs. They included

21 former members of Congress from both parties—10 Democrats and 11 Republicans.

Why does the drug industry need so many lobbyists to make its case? "It's a large industry," says Trehwhitt of PhRMA. "And there are a number of issues."

Among recent ones: bills maintaining or extending patent rights on brand-name drugs and shortening the approval time for new drugs, which the industry supports; and bills encouraging the use of generics to curb costs and allowing drugs to be reimported from Canada at lower prices, which it opposes.

But shaping the Medicare drug benefit debate has been the industry's priority for several years. PhRMA

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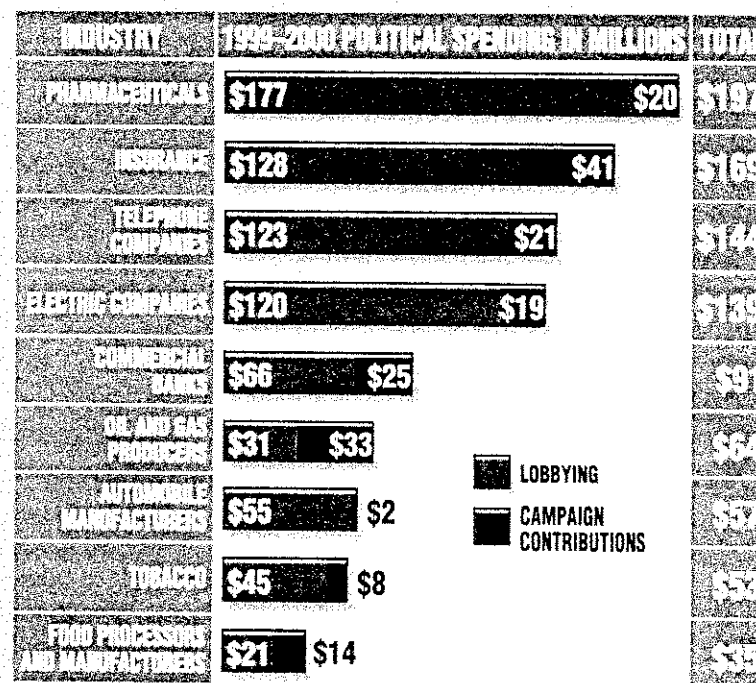
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supports a benefit, so long as it is run through private insurance companies rather than by the federal government. That way, critics say, the industry can give smaller price discounts and avoid federal scrutiny, thus warding off its worst nightmare: national price controls.

"The reason we are by far the most innovative pharmaceutical industry in the world is because the United States is one of the few major countries left with competitive marketplace incentives," Trehwhitt says.

Critics accuse drugmakers of merely protecting their bottom lines at the expense of millions of people who can't afford the drugs they need. Eco-

## WOOLING WASHINGTON WITH BIG BUCKS



SOURCE: Public Citizen and Center for Responsive Politics, 2001

against Democratic candidates.

PhRMA spent \$1.2 million on such ads, according to the University of Pennsylvania's Annenberg Public Policy Center, which tracks issue ads. But Citizens for Better Medicare—a group that promotes PhRMA's agenda and is funded largely by the drug industry—spent \$65 million, more than any other single organization except for the Democratic and the Republican parties themselves.

"When it comes to issue advocacy," the Annenberg Center reported, "money is indeed speech, with the largest bankroll having the loudest voice and the voice of those with limited means effectively drowned out."

It also noted that the single biggest issue among 2000 election television ads was a Medicare drug benefit. Most of these opposed government-sponsored coverage under Medicare. "This may have tipped the Medicare discussion in favor of Bush," the center said.

#### STATE LOBBYING AND LAWSUITS

While Washington falters over a Medicare drug benefit, many states have lately attempted to bring in a variety of programs that offer older and

uninsured citizens reduced drug prices. It is a development that has sent industry lobbyists and lawyers scurrying all over the country.

Last year, for example, Maine passed the most radical law so far, allowing the state to impose price controls

on drugs if companies refused to provide discounts for the 325,000 uninsured low-income residents not covered by Medicaid.

Democrat Chellie

Pingree, then majority leader of the Maine Senate and author of the law, says that so many drug company lobbyists descended on the small state capital, Augusta, during the debate—she says she counted 28 at a single public meeting—that "we used to joke we should get an economic development award because they'd come in on private planes, stay in our hotels, eat in our restaurants."

The pressure, Pingree recalls, was "huge." Threats to cut off campaign contributions, threats to stop distributing drugs in Maine, big advertising and letter-writing campaigns—"all to say that if you pass this little law we won't be able to do research and development and your grandmother won't get the medical innovation she needs."

In the end the industry's tactics backfired, Pingree says, because "everybody became so well informed on the issues."

As soon as the Maine law passed, PhRMA filed a lawsuit against it, citing constitutional issues. Maine won in a federal appeals court, a decision that PhRMA has appealed to the Supreme Court. The trade group has

also sued Florida, Michigan and Vermont to block new drug laws and challenged other state plans.

Many states are considering laws

## 'We want the drug-makers to take off their masks.'

Vincent DeMarco

Maryland Citizens' Health Initiative

that, like Florida's, try to curb Medicaid costs by restricting the number of brand-name drugs it covers (as many private health plans already do). Some states are trying to extend Medicaid drug coverage to larger groups of uninsured, low-income people. Michigan's law does both.

PhRMA has given notice that it will "aggressively" oppose such plans.

#### "ASTROTURF" LOBBYING

While the industry has legions of professional lobbyists working on lawmakers, it is also covertly funding "grassroots" groups to promote its cause from the bottom up. This practice is known as "astroturf" lobbying because the "grass" is manufactured.

A recent example in Maryland, first reported by the Baltimore Sun, demonstrates how this works.

Several community groups received a fax from an organization called the Consumers Alliance asking for signatures on a "grassroots" petition to the governor and legislature to "protect the poor of Maryland."

The petition did not mention specific legislation before the state assembly (similar to Michigan's law), but said: "Please reject any new state efforts that will further restrict ac-

cess of our poorest citizens to the drugs and treatment that their doctors prescribe."

Nor did it mention that this "grassroots" effort was funded by PhRMA.

It took an investigation by Bernie Horn, policy director of the Center for Policy Alternatives, a Washington think tank, to discover that the fax number of the Consumers Alliance belonged to Bonner & Associates, a Washington lobbying firm. The day after being interviewed by the Sun, both the Bonner firm and Don Rounds, president of the Consumer Alliance, registered in Annapolis, the state capital, as lobbyists for PhRMA. A consumer group has complained to the Maryland Ethics Commission.

Similar "astroturf" campaigns are being waged in Florida, Georgia, Indiana, Michigan, New Mexico, North Carolina, Virginia and Washington, according to press reports.

"We want the pharmaceutical manufacturers to take off their masks," says Vincent DeMarco, executive director of the Maryland Citizens' Health Initiative, which first became suspicious of the faxed petition. "If they oppose our legislation, let them do so in their own name rather than creating these front groups."

Asked whether PhRMA in the future would encourage such groups to disclose their sources of funding, spokesman Trewhitt responded: "I'm not sure that's the most important issue. To us, the important thing is their ability to have their voice heard. When we provide financial help, there are no strings attached. They don't owe us a darn thing."



Maine's Tom Allen, Chellie Pingree



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